

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

B & L Technologies,
Petitioner-Appellant,

v.

Adair County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-01-0038
Parcel No. 01-04-429-901

On November 18, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, B & L Technologies, was self-represented by owner Robert Hintz, President, and submitted evidence in support of its appeal. The Adair County Board of Review designated County Attorney Michael Maynes as its legal representative. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

B & L Technologies, LLC (B & L) owner of commercial property located in Adair, Iowa, appeals from the Adair County Board of Review decision reassessing its property. The real estate was classified commercial for the January 1, 2011, assessment and valued at \$20,014.

B & L protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). B & L also claimed error; however, the error was related to the market value. Therefore, this Board will only consider the ground of market value. The Board of Review denied the protest stating, "evidence by taxpayer was not sufficient to prove the assessment was excessive and the Board finds no error in the assessment as alleged by taxpayer."

B & L filed its appeal with this Board on the same ground. B & L claims \$3900 is the actual value and the fair market value. It seeks \$16,114 in relief.

The subject property is an analog cablevision segment with twenty-three current subscribers. The system does not have digital or internet capabilities and is assessed as property on leased land.

Bob Hintz, President and sole owner of B & L, testified tat the cable system is outdated and cannot provide digital, internet, or VOIP system to his clientele. Hintz is of the opinion that the subject's only value is scrap value. He opined analog has no upgrade potential and will be obsolete in five to ten years.

Hintz provided a bill of sale from 2007 showing he paid \$20,400 for the subject property. Hintz also provided income and expense information that indicated a total net profit of \$174.13. He testified he is able to keep in business because other properties he owns cover his costs. He stated this system will more than likely shutdown because of future cost and the system's obsolescence. He continues to lose customers.

Thomas Graves of Iowa Cable and Telecommunications Association, Inc., testified on behalf of B & L. Graves stated that although B & L is not a member of his association, he agreed to testify. Graves has a background in property tax. In Graves' opinion, the property has no value. Graves testified that he contacted cable television companies regarding the likelihood of anyone being willing to purchase a cable system like the subject property. He found that no one would be willing to purchase a system as outdated as B & L. In his opinion, the system would have some salvage value for the copper, but that value would have to be reduced by the amount of labor required to take down the plant and strip out the copper.

Graves testified the cost for a cable system represents a ceiling and no assessment should be higher. But when market values are lower, it is not appropriate to use the cost system market analysis. Graves believes the *Department of Revenue Cable Cost Manual* is appropriate for most cable systems

but not in the subject property's case because of its outdated components and lack of current technology capabilities.

Ken Huddleson, Adair County Assessor, testified on behalf of the Board of Review. Huddleson testified that he used the Department of Revenue Cable Television Reporting Form (Exhibit B). The value based on the form was \$42,728. Huddleson did not use the form for valuation purposes because, in his opinion, the form created too high a value. Huddleson used a per-customer value and arrived at a value of \$20,014. He believes his assessment is a fair and reasonable.

This Board is aware that the assessor must follow the form provided by the Department of Revenue. However, it is clear from the evidence in the record and the testimony of the assessor that the cable manual does not work for the subject property or may not work for any cable system. We note the subject property is an outdated analog system, not a digital system with internet or VOIP options and has no upgrade potential. Also, the form does not allow for depreciation or any obsolescence for the outdated analog to create the January 1, 2011, assessment.

The best evidence is that provided by the assessor. The assessor recognized the manual did not work for this type of system and adjusted downward. The appellant, B & L, failed to prove by a preponderance of the evidence that the subject property market value is \$3900. Therefore, we affirm the assessment as determined by the Board of Review.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only

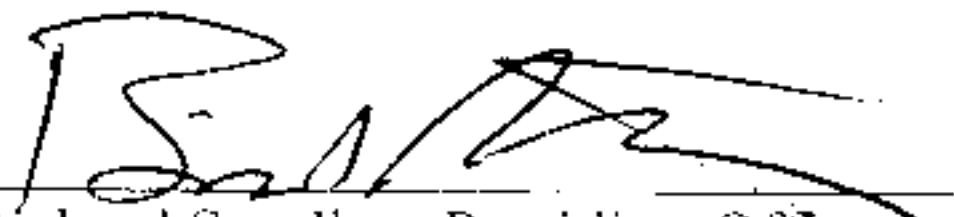
those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21 (2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The preponderance of the evidence in the record does not support B & L Technologies' claim that the property is over-assessed.

THE APPEAL BOARD ORDERS the assessment of the B & L Technologies property located in Adair County, Iowa, as determined by the Adair County Board of Review is affirmed.

Dated this 24 day of January 2012.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-24</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	